

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 6913**

**BILL NUMBER: SB 315**

**NOTE PREPARED:** Dec 29, 2005

**BILL AMENDED:**

**SUBJECT:** Sex Offenders and Lifetime Parole.

**FIRST AUTHOR:** Sen. Mrvan

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** This bill has the following provisions:

*Lifetime Parole and Monitoring Devices:* It provides that a person convicted of child molesting:

- (1) must be placed on lifetime parole when the person's term of imprisonment is completed;  
and
- (2) may be required to wear a GPS monitoring device.

*GPS Monitoring Device:* It allows the parole board to require a sex and violent offender to wear a GPS monitoring device while on parole.

*Violation of Lifetime Parole:* It provides that:

- (1) a person who violates a condition of lifetime parole after the person's lifetime parole has been revoked two or more times or after completing the person's sentence (including any credit time) commits a Class D felony;
- (2) the offense is a Class C felony if the person has a prior unrelated lifetime parole violation conviction or if the violation involves contact with a child or a victim of the child molesting offense for which the person was convicted; and
- (3) the offense is a Class B felony if the person has a prior unrelated lifetime parole violation conviction that involved contact with a child or a victim of the child molesting offense for which the person was convicted.

*Convictions from Other States:* It specifies that a person convicted of child molesting in another state whose

parole is transferred to Indiana is required to be placed on lifetime parole.

*Supervision:* It provides that, if a person being supervised on lifetime parole is also required to be supervised by a probation department or similar agency, the probation department or similar agency may have sole supervision of the person if the parole board finds that supervision by the probation department or other agency will be at least as stringent and effective as supervision by the parole board.

*Violation of Home Detention:* It increases the penalty for violating a home detention order or removing an electronic monitoring device to a Class C felony if the person committing the crime is a sex offender.

*Failure to Register as a Sex Offender:* It increases the penalty for committing failure to register as a sex offender to a Class C felony.

*Assisting a Sex Offender:* It makes assisting a sex offender a Class C felony.

*Status Removal:* It provides that a person who has been adjudicated a sexually violent predator may not petition a court to remove this status until 20 years have elapsed.

**Effective Date:** July 1, 2006.

**Explanation of State Expenditures:** *Lifetime Parole:* The bill will increase parole supervision costs for offenders convicted of child molesting who are released from state incarceration. Under current law, a sex offender may be assigned parole supervision for up to ten years. Under the bill, when released from a term of incarceration, a parolee who has been convicted of child molesting will be placed on parole for the remainder of the person's life.

Moreover, the bill would allow the parole board to choose to also supervise offenders who are assigned to probation, community corrections, or community transition programs or to permit the other agency to exercise all or part of the parole supervision responsibility. The number of offenders receiving simultaneous supervision of the parole board and another agency is indeterminate and will be based on the decisions of the parole board.

*Background on Lifetime Parole:* Based on release information from CY 2003 and 2004, on average, 469 offenders convicted of child molesting are released from prison each year. Of these, the majority are placed on parole (48.6%) or probation (38.8%), while others are released to community transition programs (6.0%) or serve the maximum sentence (6.6%). On average for the two years reviewed, offenders were released at 38 years of age. Assuming the average age of these offenders at death is 77 years, lifetime parole would mean 39 years of supervision on average. Assuming that offenders convicted of child molesting already receive parole supervision for 10 years, about 228 offenders a year would receive additional parole supervision of about 29 years, on average.

There are no financial data available to indicate the average cost of parole supervision. Currently, there are eight district offices with 127 employees, including parole officers, parole supervisors, substance abuse counselors, and support staff. The combined salary for these employees is about \$4.0 M, and the average annual parole population for FY 2005 was 5,759. Given the effective date of the bill and assuming that offenders would otherwise have received 10 years of parole, lifetime parole will increase the parole population beginning in 2016. All other things remaining equal, at a minimum, parole capacity will have to increase for 6,612 additional parolees by 2035 for the 48.6% of these offenders who would have been sentenced to parole.

*Monitoring Device:* The bill may increase costs for monitoring offenders convicted of child molesting. The bill would permit the parole board to determine if a child molesting offender must wear a monitoring device as a condition of parole. There are a variety of monitoring systems that fit the requirements for monitoring in IC 35-38-2.5-3 and that would work in different geographic locations. The cost of monitoring will vary based on the type of device required. As an example of the difference in cost, the daily cost of a radio frequency device that monitors offenders in their homes is \$1.30 in Marion County, while the cost of a global positioning satellite system is \$5.00 per day for a passive system and \$10.00 for active or 24-hour surveillance. Continuous monitoring (not necessarily required) could increase costs for staff to allow for monitoring and response or to provide for more flexible working schedules.

*Violation of Lifetime Parole:* There are no data available to indicate how many offenders on lifetime parole would be convicted of the Class D felony created under the bill for knowingly or intentionally violating the conditions of lifetime parole if the person's lifetime parole had been revoked two or more times, or if the person has completed the term of sentence. The offense may be increased to a Class C felony or a Class B felony based on prior unrelated convictions or if the violation involves a child under 16 years of age or the victim of the child molesting offense.

*Violation of Home Detention:* Under current law, knowingly or intentionally violating home detention or removing an electronic monitoring device is a Class D felony for escape. Under the bill the offense would increase to a Class C felony if the person is required to register as a sex offender. On average between FY 2001 and FY 2005, there were 118 offenders a year committed to a Department of Correction (DOC) facility for Class D felony escape. There are no data available to indicate how many of these offenders were required to register as a sex offender.

*Failure to Register as a Sex Offender:* The number of beds needed in DOC facilities could increase if no other changes occur. These offenders would have a later date of release by enhancing failure to register as a sex offender from a Class D felony to a Class C felony and increasing the penalty for a subsequent offense from a Class C felony to a Class B felony. Between FY 2001 and FY 2005, an average of 13 offenders a year were committed to DOC facilities for Class D felony failing to register as a sex offender, and no offenders were committed for the subsequent offense felony. Given the average length of stay for all Class D and Class C felony offenders (see *Background on Criminal Penalties*), the commitment data reported by the DOC, and an effective date of July 1, 2006, an additional 10 beds would be needed by 2007.

*Assisting a Sex Offender:* Under current law, assisting an offender is a Class A misdemeanor, except in certain circumstances when the offense may be enhanced to a Class D, Class C, or Class A felony. The bill would add assisting a person who committed child molesting to the circumstances under which the penalty could be increased to a Class C felony. Between FY 2001 and FY 2005, an average of 10 offenders a year were committed to a DOC facility for Class C felony assisting a criminal.

*Background on Criminal Penalties:* Depending upon mitigating and aggravating circumstances, a Class B felony is punishable by a prison term ranging between 6 and 20 years, a Class C felony is punishable by a prison term ranging between 2 and 8 years, and a Class D felony is punishable by a prison term ranging from 6 months to 3 years or reduction to Class A misdemeanor. The average length of stay in DOC facilities for all Class B felony offenders is approximately 3.7 years, for all Class C felony offenders is approximately 2 years, and for all Class D felony offenders is approximately 10 months.

The average expenditure to house an adult offender was \$20,977 in FY 2005. (This does not include

the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$62,292.

*Status Removal:* Under current law, an offender who has committed a list crime and been found by a court to be a sexually violent predator may petition to have the status removed 10 years after sentencing. Under the bill, 20 years would have to elapse. To the extent that the state incurs additional annual costs for offenders who are found to be sexually violent predators, these costs could be incurred over a longer period of time.

**Explanation of State Revenues:** *Violation of Lifetime Parole:* If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class B, Class C, and Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

*Violation of Home Detention; Failure to Register as a Sex Offender:* No change in revenues as a result of increasing the criminal penalty is expected as fines and court fees are the same for these criminal penalties.

*Assisting a Sex Offender:* More revenue to the Common School Fund could be collected if a larger criminal fine is assessed by the sentencing court. The maximum fine for a Class A misdemeanor is \$5,000, while the maximum fine for a Class D felony is \$10,000. Court fees for both misdemeanors and felonies are \$120.

**Explanation of Local Expenditures:** *Violation of Lifetime Parole:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

*Violation of Home Detention; Failure to Register as a Sex Offender:* Expenditures would not change as a result of changes in the criminal penalty for these offenses.

*Assisting a Sex Offender:* A Class A misdemeanor is punishable by one year in a local jail. If the offense is a felony, local expenditures for incarceration could decrease if the offender is instead incarcerated in a state facility.

**Explanation of Local Revenues:** *Violation of Lifetime Parole:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

*Violation of Home Detention; Failure to Register as a Sex Offender:* No change in revenues as a result of increasing the criminal penalty is expected as court fees are the same for these criminal penalties.

**State Agencies Affected:** Department of Correction.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** Indiana Sheriffs' Association, Department of Correction.

**Fiscal Analyst:** Karen Firestone, 317-234-2106.